

Burlington Comprehensive Development Ordinance

PROPOSED: ZA-15-04 - Downtown, Neighborhood Mixed Use, & Enterprise Districts Setbacks Abutting a Residential Zone

As recommended for approval by the Planning Commission following public hearing on March 10, 2015.

Changes shown (underline to be added, ~~strike-out~~ to be deleted) are proposed changes to the *Burlington Comprehensive Development Ordinance*.

Purpose: This amendment comes as a result of a determination by the Superior Court Environmental Division that the present language of the ordinance, by referring to a property line, allows a change of a property line to de facto change the zoning setback. The result without this setback in effect extends the encroachment of a mixed use district into a residential area based solely on changes in parcel boundaries rather than on the zoning boundary line established by the Planning Commission and City Council. Instead the City needs to assure better control over the expansion of districts, thus this change references the “zoning boundary” rather than a dynamic “property line” that is not under the City’s control.

Sec. 4.4.1 Downtown Mixed Use Districts (a), (b), (c) as written.

Table 4.4.1-1 Dimensional Standards and Intensity						
Districts	Max. Intensity (floor area ratio ¹)	Max. Lot Coverage	Min. Building Setbacks (feet) Front ⁵ Side ^{2, 4} Rear ^{2, 4}			Height ³ (feet)
Downtown						
D	5.5 FAR	100%	Greater of 0’ or 12’ from curb	0	0	Min: 30 Max: 65
Church St. Marketplace	Same as Downtown					Min: 30 Max: 38 (see Sec. 4.4.1(d)(4)(B))
Downtown Transition District						
DT		100%	Greater of 0’ or 12’ from curb	0	0	
A. North of Buell St.	4 FAR	Same as Downtown Transition				Min: 30 Max: 45
B. South side of Main St.	5.5 FAR	Same as Downtown Transition				Min: 30 Max: 65
C. South of Buell St.	4 FAR	Same as Downtown Transition				Min: 30 Max: 45
D. South of Maple St.	2 FAR	Same as Downtown Transition				Min: 30 Max: 35
Downtown Waterfront						
DW		100%	Greater of 0’ or 12’ from curb	0	0	
A. North of Pearl - East	4 FAR	Same as Downtown Waterfront				Min: 30 Max: 45
B. Pearl to Bank - East	4 FAR	Same as Downtown Waterfront				Min: 30 Max: 45
C. Pearl to Bank -	2 FAR	Same as Downtown Waterfront				Min: 30 Max: 35

West						
D. Bank to College East	3 FAR		Same as Downtown Waterfront			Min: 30 Max: 35
E. Bank to College West	2 FAR		Same as Downtown Waterfront			Min: 30 Max: 35
F. South of College	2 FAR		Same as Downtown Waterfront			Min: 30 Max: 35
Downtown Waterfront – Public Trust						
A. North of Pearl West	2 FAR		Same as Downtown Waterfront			Max: 35
B. Lakeshore ⁴	2 FAR		Same as Downtown Waterfront			Max: 35
Battery Street Transition						
BST	3 FAR	100%	Greater of 0' or 12' from curb	0	0	Min: 30 Max: 35
<p>1 Floor area ratio is defined and described in Art 5. Bonuses for additional FAR where available are described in section (d)6 below. Actual maximum build out potential may be reduced by site plan and architectural design considerations of Art 6.</p> <p>2 Structures shall be setback along any <u>zoning district boundary</u> property line that abuts a residential zoning district pursuant to the requirements of (d)6 below.</p> <p>3 Minimum building height shall be 30-feet and 3 stories. Measurement of and exceptions to height standards are found in Art 5. Bonuses for additional building height where available are described in section (d)6 below. Any portion of a building over 45-feet in height shall be setback from the front property line pursuant to the requirements of (d)4 below.</p> <p>4 All structures shall be setback a minimum of 50-feet from the shoreline of Lake Champlain unless an encroachment is authorized under (d)5 below.</p> <p>5 All structures shall be setback 12-feet from the curb on a public street except as otherwise allowed by the DRB for development along the following streets: both sides of Center Street; both sides of Pine Street between Cherry and Pearl Streets; the east side of Pine Street between Bank and Main Streets; the west side of Pine Street between College and Main Streets; and South Winooski Avenue between Bank and College Streets. The DRB may order a wider setback in any case under its review if it should determine that the application cannot be approved under applicable criteria without such additional setback.</p>						

(d) 6. Residential District Setback

Structures shall be setback a minimum of 15-feet from any zoning district boundary ~~property~~ line that abuts a residential zoning district. Lots of record existing as of January 1, 2015 that are split by downtown and residential zones are exempt from this district boundary setback. (Exceptions to yard setback requirements can be found in (Sec. 5.2.5))

Where a structure, legally existing before 1 January 2011, already encroaches into the required residential district setback for the Residential High-Density District (RH), the DRB may permit, subject to design review, additions to the pre-existing encroaching structure provided:

- the addition does not project farther into the residential district setback towards the RH district boundary than the pre-existing encroachment. In no event shall the encroachment of the addition be less than 5 feet from the boundary line; and,
- the height of any addition does not exceed the height of the pre-existing encroachment or 35-feet whichever

Sec. 4.4.2 Neighborhood Mixed Use Districts.

Table 4.4.2 -1 Dimensional Standards and Density

Districts	Max. Intensity (floor area ratio ¹)	Max. Lot Coverage	Minimum Building Setbacks (feet)			Height (feet)
			Front ⁴	Side ²	Rear ²	
NAC	2.0 FAR	80% ⁵	0	0	0	Max: 35
NMU	2.0 FAR	80%	0 ⁶	0	0	Min: 20 ³ Max: 35
NAC-Riverside	2.0 FAR	80%	0	0	0	Min: 20 ³ Max: 35

1. Floor area ratio is defined in Art. 13 and described in Art 5. Actual maximum build out potential may be reduced by site plan and architectural design considerations of Art 6.
2. Structures shall be setback a minimum of 15-feet along any zoning district boundary property line that abuts a residential zoning district. Lots of record existing as of January 1, 2015 that are split by neighborhood mixed use and residential zones are exempt from this district boundary setback.
3. Minimum building height shall be 20-feet and 2 story^{ies}. Measurement of and exceptions to height standards are found in Art 5. Bonuses for additional building height are described in section (d)3 below.
4. All structures shall be setback 12-feet from the curb on a public street.
5. Exceptions to minimum lot coverage are provided in (d)2.
6. Notwithstanding footnote 4, the NMU district at the intersection of Pine St. and Flynn Avenue shall have a minimum front yard setback of 10 feet.

Sec. 4.4.3 Enterprise Districts.

Table 4.4.3 -1 Dimensional Standards and Density

Districts	Max. Intensity (floor area ratio ¹)	Max. Lot Coverage ¹	Minimum Building Setbacks ¹ (feet)			Max. Height ¹ (feet)
			Front	Side	Rear ³	
Light Manufacturing	2.0 FAR	80%	5 min	0 ²	10% ²	45'
Agricultural Processing and Energy	0.75 FAR	60%	10 min	10 min	10 min	45'

1 – Floor area ratio is further described in Art 5. Measurement of and exceptions to coverage, setback, and height standards are found in Art 5. Actual maximum build out potential may be reduced by site plan and architectural design considerations of Art 6.

2 – Structures shall be setback a minimum of 25-feet along any zoning district boundary property line that abuts a residential zoning district. Lots of record existing as of January 1, 2015 that are split by enterprise and residential zones are exempt from this district boundary setback.

3 – Percentage of the lot depth.

